

MONTANA LEGISLATIVE HISTORY

Chapter 168 1999

Bill H 430 S _____

Original bill & history ☒ c

H. Committee on Bus & Labor

S. Committee on PH, Welfare & Safety

Hearing Date(s) 2/02 _____ c

Hearing Date(s) 3/04 _____ c

✓ 2/05 _____ c

3/15 _____ c

_____ c

_____ c

_____ c

_____ c

Date Out _____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

no vote sheet House 2/05

Bill Draft Number: LC0877**Bill Type - Number:** HB 430**Short Title:** Allow worker to choose initial physician even if preferred provider org in place**Primary Sponsor:** Carolyn Squires**Chapter Number:** 468**Bill Actions - Current Bill Progress:** Became Law**Bill Action Count:** 53

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/27/1999			
(H) Signed by Governor	04/26/1999			
(H) Transmitted to Governor	04/16/1999			
(S) Signed by President	04/15/1999			
(H) Signed by Speaker	04/14/1999			
(C) Printed - New Version Available	04/14/1999			
(H) Returned from Enrolling	04/14/1999			
(H) Sent to Enrolling	04/12/1999			
(H) 3rd Reading Passed as Amended by Senate	04/12/1999	95	4	
(H) Scheduled for 3rd Reading	04/12/1999			
(H) 2nd Reading Senate Amendments Concurred	04/10/1999	92	4	
(H) Scheduled for 2nd Reading	04/10/1999			
(S) Returned to House with Amendments	03/19/1999			
(S) 3rd Reading Concurred	03/19/1999	44	0	
(S) Scheduled for 3rd Reading	03/19/1999			
(S) 2nd Reading Concurred	03/18/1999	48	0	
(S) Scheduled for 2nd Reading	03/18/1999			
(S) Segregated from Committee of the Whole Report	03/17/1999	49	0	
(S) 2nd Reading Concurred	03/17/1999	49	0	
(S) Scheduled for 2nd Reading	03/17/1999			
(C) Printed - New Version Available	03/16/1999			
(S) Committee Report--Bill Concurred as Amended	03/16/1999			(S) Public Health, Welfare and Safety
(S) Committee Executive Action--Bill Concurred as Amended	03/16/1999	8	0	(S) Public Health, Welfare and Safety
(S) Hearing	03/15/1999			(S) Public Health, Welfare and Safety
(S) Hearing Canceled	03/04/1999			(S) Public Health, Welfare

HOUSE BILL NO. 430

INTRODUCED BY C. SQUIRES

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A WORKER MAY CHOOSE AN INITIAL TREATING PHYSICIAN EVEN IF A PREFERRED PROVIDER ORGANIZATION IS IN PLACE; PROVIDING FOR WRITTEN NOTICE TO THE INJURED WORKER AFTER THE DATE OF INJURY; AND AMENDING SECTIONS 39-71-1101 AND 39-71-1102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-1101, MCA, is amended to read:

"39-71-1101. Choice of physician by worker -- change of physician -- receipt of care from managed care organization. (1) Subject to subsection (3), a worker may choose the initial treating physician within the state of Montana.

(2) Authorization by the insurer is required to change treating physicians. If authorization is not granted, the insurer shall direct the worker to a managed care organization, if any, or to a medical service provider who qualifies as a treating physician, who shall then serve as the worker's treating physician.

(3) A Except for an initial treating physician, a medical service provider who otherwise qualifies as a treating physician but who is not a member of a managed care organization may not provide treatment unless authorized by the insurer, if:

- (a) the injury results in a total loss of wages for any duration;
- (b) the injury will result in permanent impairment;
- (c) the injury results in the need for a referral to another medical provider for specialized evaluation or treatment; or
- (d) specialized diagnostic tests, including but not limited to magnetic resonance imaging, computerized axial tomography, or electromyography, are required.

(4) A worker whose injury is subject to the provisions of subsection (3) shall must, unless otherwise authorized by the insurer, receive medical services from the managed care organization designated by the insurer, in accordance with 39-71-1104. The designated treating physician in the managed care organization then becomes the

worker's treating physician. The insurer is not liable for medical services obtained otherwise, except that a worker may receive immediate emergency medical treatment for a compensable injury from a medical service provider who is not a member of a managed care organization."

Section 2. Section 39-71-1102, MCA, is amended to read:

"39-71-1102. Preferred provider organizations -- establishment -- limitations.

(1) In order to promote cost containment of medical care provided for in 39-71-704, development of preferred provider organizations by insurers is encouraged. Insurers may establish arrangements with suppliers of soft and durable medical goods and medical providers in addition to or in conjunction with managed care organizations. Workers' compensation insurers may contract with other entities to use the other entities' preferred provider organizations. After the date that a an injured worker is given a written notice by the insurer of a preferred provider, the insurer is not liable for charges from nonpreferred providers. This section does not prohibit the worker from choosing the initial treating physician under 39-71-1101(1).

(2) Posting of preferred provider requirements in the workplace on bulletin boards, in personnel policies, in company manuals, or by other general or broadcast means does not constitute individual written notice. To constitute written notice under this section, information regarding preferred provider requirements must be provided to the worker in written form by mail or in person after the date of injury. The notice must advise the worker of the worker's right to choose the initial treating physician under 39-71-1101."

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 2, 1999 at 8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 428, HB 395, HB 416, HB
400, HB 430,
1/29/99

Executive Action:

{Tape : 3; Side : B; Approx. Time Counter : 12 - 59}

Christine Kaufman. Human Rights Assn. EXHIBIT(buh26a12)

{Tape : 3; Side : B; Approx. Time Counter : 59 - 85}

Beth Beneman, ACLU

{Tape : 3; Side : B; Approx. Time Counter : 85 - 99}

Opponents' Testimony: Arlette Randash, Eagle Forum

{Tape : 3; Side : B; Approx. Time Counter : 99 - 186}

Chuck Butler, Blue Cross-Blue Shield EXHIBIT(buh26a13)

{Tape : 3; Side : B; Approx. Time Counter : 186 - 268}

Al Pontrelli, MT Assn of Life Underwriters.

{Tape : 3; Side : B; Approx. Time Counter : 268 - 287}

Riley Johnson, NFIB

{Tape : 3; Side : B; Approx. Time Counter : 287 - 299}

Sharon Hoff, Montana Catholic Conference

{Tape : 3; Side : B; Approx. Time Counter : 299 - 316}

Mary Allen, Montana Medical Benefits

{Tape : 3; Side : B; Approx. Time Counter : 316 - 332}

Questions from Committee Members and Responses: Reps. Krenzler, Tuss, Bitney, Sliter, Pavlovich, Bookout and Simon questions witnesses.

{Tape : 3; Side : B; Approx. Time Counter : 332 - 500}

{Tape : 4; Side : A; Approx. Time Counter : 0 - 175}

Closing by Sponsor: Rep. Guggenheim closed HB 400.

{Tape : 4; Side : A; Approx. Time Counter : 175 - 200}

HEARING ON HB 430

Opening Statement by Sponsor: Rep. Squires HD 68 introduced HB 430.

{Tape : 4; Side : A; Approx. Time Counter : 200 - 290}

Proponents' Testimony: Senator Cocchariela,

{Tape : 4; Side : A; Approx. Time Counter : 290 - 330}

Jason Miller, Western Council of Ind. Workers

{Tape : 4; Side : A; Approx. Time Counter : 330 - 397}

Larry Keal, Western Council member

{Tape : 4; Side : A; Approx. Time Counter : 397 - 500}

{Tape : 4; Side : B; Approx. Time Counter : 0 - 11}

Don Judge AFL-CIO

{Tape : 4; Side : B; Approx. Time Counter : 11 - 53}

Al Smith, MT Trial Lawyers

{Tape : 4; Side : B; Approx. Time Counter : 53 - 62}

Nancy Butler, State Fund

{Tape : 4; Side : B; Approx. Time Counter : 62 - 70}

Geo Wood, MT Self Insurers

{Tape : 4; Side : B; Approx. Time Counter : 70 - 88}

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor: Rep. Squires closed

{Tape : 4; Side : B; Approx. Time Counter : 88 - 120}

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL

DATE 2/2/99

NAME	PRESENT	ABSENT	EXCUSED
Chairman Bruce Simon	X		
Rep. Paul Sliter	X		X
Rep. Bob Pavlovich	X		
Rep. Joe Barnett	X		
Rep. Rod Bitney	X		
Rep. Sylvia Bookout-Reineke	X		
Rep. Roy Brown	X		
Rep. David Ewer	X		
Rep. Billie Krenzler	X		
Rep. Bob Lawson	X		
Rep. Gay Ann Masolo	X		
Rep. Gary Matthews	X		
Rep. Joe McKenney	X		
Rep. Carolyn Squires	X		
Rep. Jay Stovall	X		
Rep. Carley Tuss	X		
Rep. Carol Juneau	X		
Rep. Cliff Trexler	X		

MONTANA HOUSE OF REPRESENTATIVES VISITORS REGISTER

DATE 2-2-99

BILL NO. HB 430

SPONSOR(S) _____

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE
CIRCLE

NAME

ADDRESS

REPRESENTING

☒ POI	Sam. Butler	Helena	MMT
☒ POI	DONN TITUS	Helena	MMT
☒ POI	Jasen Miller	Missoula	WCTW 3038
☒ POI	Bryan Eklant	Missoula	WCIW Local 3038
☒ POI	LARRY KEOGH	MISSOULA	WCIW LOCAL 3038
☒ POI	Don Judge	Helena	MT STATE AFL-CIO
☒ POI	Wanney Butler	Helena	State Fund
☒ POI	Mark Baker / jr	HA Helena	NAII sub amdt
☒ POI	Jacqueline Denmark / jr	Helena	AIA sub amdt
☐ POI			
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 5, 1999 at 8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJR 15, HB 489, 2/3/1999
Executive Action: HB 353, SB 77, HB 442, HB 448,
HB 400, HB 430, HB 428, HB
367, HB 368, HB 369, HB 370,
HB 402, HB 396, HJR 15, HB 489

EXECUTIVE ACTION ON HB 400

Motion: REP. TUSS moved that HB 400 DO PASS.

{Tape : 1; Side : A; Approx. Time Counter : 382 - 392}

Motion/Vote: REP. TUSS moved that HB 400 BE AMENDED. Motion carried unanimously. EXHIBIT(buh29a01)

{Tape : 1; Side : A; Approx. Time Counter : 392 - 450}

Motion: REP. TUSS moved that HB 400 DO PASS AS AMENDED.

{Tape : 1; Side : A; Approx. Time Counter : 450 - 500}

Motion: REP. BARNETT moved that HB 400 BE TABLED. Barnett withdrew motion.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 20}

Motion/Vote: REP. EWER moved that HB 400 DO PASS AS AMENDED.

Motion failed 8-10 with Barnett, Bitney, Brown, Lawson, Masolo, McKenney, Pavlovich, Simon, Stovall, and Trexler voting aye.

{Tape : 1; Side : B; Approx. Time Counter : 20 - 47}

Motion/Vote: REP. PAVLOVICH moved that HB 400 BE TABLED. Motion carried 10-8 with Barnett, Bitney, Brown, Lawson, Masolo, McKenney, Pavlovich, Simon, Stovall, and Trexler voting no.

{Tape : 1; Side : B; Approx. Time Counter : 47 - 150}

EXECUTIVE ACTION ON HB 430

Motion: REP. SQUIRES moved that HB 430 DO PASS.

Motion/Vote: REP. SQUIRES moved that HB 430 BE AMENDED. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 150 - 205}

Motion/Vote: REP. SQUIRES moved that HB 430 DO PASS AS AMENDED. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 205 - 213}

EXECUTIVE ACTION ON HB 428

Motion: REP. BARNETT moved that HB 428 DO PASS.

{Tape : 1; Side : B; Approx. Time Counter : 213 - 224}

Motion/Vote: REP. TUSS moved that HB 428 BE AMENDED. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 224 - 234}

FINAL
Signed:

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN AL BISHOP**, on March 15, 1999 at 3:10 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Chairman (R)
Sen. Fred Thomas, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Dale Berry (R)
Sen. John C. Bollinger (R)
Sen. Chris Christian (D)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)

Members Excused: None.

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Martha McGee, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 266, HB 430, 3/4/1999
Executive Action: HB 430, HB 399, HB 580

HEARING ON HB 266

Sponsor: REP. MARY ANNE GUGGENHEIM, HD 55, Helena

Claudia Clifford stated this is very specific to the inborn errors of metabolism. Otherwise speciality foods developed for diabetics are never covered by insurance companies. They are going to have to work with the physicians and specialists that understand this, and even have their policy holders services division and enforces a lot of these laws that have a specific list of what are the names of the conditions that they need to look out for.

Closing by Sponsor:

REP. GUGGENHEIM thanked the Committee for a good hearing. These are rare diseases, and it behooves us to treat them in an optimal way, instead of having to take care of **Joni Haydon** all of her life, she is going to start paying taxes pretty soon. So lets do it right.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 30}

HEARING ON HB 430

Sponsor: **REP. CAROLYN SQUIRES, HB 68, Missoula**

Proponents: **Brandon Tippy, Representing 500 + Members of Local #3038, Union in Missoula, Members of Stimpson Lumber Company, Circle Manufacturing and Clausen Manufacturing Co.**
Larry Keogh, Member of Carpenters' Local #3038, Stimpson Plant, Bonner, MT
Don, Judge, Representing State AFL-CIO
Gene Fenderson, Representing Montana Highway Com., Construction Group Which Includes, Dams, Refineries, Highways and Causeways, etc.
Todd Thun, Montana Nurse's Association
Nancy Butler, State Fund
Al Smith, Attorney, Montana Trial Lawyers'
George Wood, Montana Self Insurers' Association

Opponents: **None**

Opening Statement by Sponsor:

REP. CAROLYN SQUIRES, HD 68, Missoula, said today, she is presenting **HB 430**. **House Bill 430** is a bill that was brought to

her attention by some of the people that she interacts with in Missoula. This bill deals with preferred providers, and health maintenance organizations. This an act to clarify when a worker may choose his or her initial treating physician, even if a preferred provider organization is in place. The bill also provides for written notice to the injured worker after the date of injury. There has been some problems in an establishment, and she is just trying to clarify the law. The proponents will give the Committee find examples as to what the problems have been, and they will see the rationale for this bill.

Proponents' Testimony:

Brandon Tippy, Representing 500 plus Members of Local 3038, Union in Missoula, Members of Stimpson Lumber Company, Circle Manufacturing and Clausen Manufacturing, said he has been talking to several legislators in the last 1 1/2 years, they found problems with PPO (Preferred Provider Organization) statutes which were adopted. The original intent was that the Workers' Compensation Insurance Agencies, would have a check against workers' malingering on the Worker's Compensation system.

Specifically, if the patient was taking too long to heal, or the insurer felt that the patient may be faking the injury, the insurer could then refer the patient to preferred provider organization, and gain further insight and control in the individual's case. The organization providers were going to protect the Worker's Compensation System from abuse, and rightly so. None of them disagree with that at all. However, those who have experienced the application of the appeal system have found that instead of using the appeal system for Worker's Compensation fraud protection, the appeals have been used for primary care.

Now what happens when a PPO, is used for primary care instead of what it was intended for - is the patients are not given the opportunity to choose their treating physician. As the language is written in the Code, a patient has the right to choose his/her initial treating physician. However, if the insurance company informs that individual, they are under a PPO System, then that patient must receive care from a PPO provider. In order to shunt these patients into their system immediately, they have devised a system of posting the providers, and noticing that the PPO system at the place of employment. Regardless of whether or not the patient's been malingering in the system, they are forced into the care of what they like to call "company doctors." Company doctors are those with a certain philosophy that fits the insurance companies criteria.

As an illustration, a worker's injured, the supervisor takes the employee to the emergency room, or the employee goes to a provider alone. At that point, the supervisor informs the worker patient, that they are now required to receive any further care from one of the appeal providers. In some cases, they don't even make it to the emergency room, or the initial one time visit, they don't even make it to that either. Sometimes they go to their supervisor, and say, "I'm injured, I'm hurt, I'm going to go to the doctor, and that supervisor immediately says, well you understand that you are under an appeal system, you need to pick one of these (in their case - about 4 doctors) general practitioners. Once in the appeal system, they can't leave unless, referred by the provider and in that instance, the insurance company requests, that the appeal provider remains as the treating physician. So that ultimate control of the care stays with the insurance company and the employer.

What results, is that the employer and the insurer are in direct contact with the provider, and usually know the intimate details of care, either at the same time, or in many instances even before the patient. In many cases, the employer informs the patient when he or she can return to work and in what capacity. This obviously sacrifices any privacy of care. The patient also suffers from the lack of quality and speed of care. The insured designs the appeal system, is relative small for business purposes. They want providers who have the philosophy the insurer wants in their organization. This is generally to turn these employees back into work as soon as they can, and will keep cost down, lost time incidents, and everything that the company can benefit from. The selection of providers for patients is extremely small. It is a pretty mathematical formula. In order to generate, greater volume, you need to make sure you have fewer providers.

In Missoula, they have roughly 4 choices, in their appeal system. Their sister local in Libby, they only have one choice. All of these providers are general practitioners. Before a patient can go to specialist, they must go to a PPO or job practitioner first and receive a referral. This takes time, and in many cases time is of the essence, depending on the injury.

In conclusion, he would like to say, the Appeal Worker's Compensation language has not been applied as it was originally intended, is sacrificing the rights to timely, and quality, and private care for fellow Montanans, and should be amended to correct the situation. He is in support of **HB 430**.

Larry Keogh, Member of Carpenters Local 3038, Stimpson Plant, in Bonner, MT. He is a worker that was inadvertently injured. In March 1997, his ring finger on his right hand was trapped between

a board, and belt. His finger being trapped between the board and belt, as the board was coming by, he managed to pull his hand out, but it wound up taking the end knuckle and breaking his finger off, the skin was still holding it on. The bone had erupted. Going to the emergency room with his supervisor that evening, at about 1:30 a.m.. They went in and ER doctor tried to set, deaden it, tried to set it and the ER doctor informed him at time that he was going to need to see an orthopedic surgeon. The ER doctor asked him if he had a preference. He didn't, but his wife works within the medical community in Missoula. In Western Montana there is a renowned hand doctor right there. He got home from work at about 5:00 a.m. He told his wife, and she pulled some strings, and managed to wrangle an appointment for 10:30 a.m. with the specialist orthopedic surgeon.

He called his employer, since he had an appointment at 10:30 a.m. and told them what he was going to do. The superintendent of the lumber division, said "No, no, you have got to go to one of our preferred providers, we are a PPO organization."

So he called this general practitioner, and arranged for a 1:00 p.m. in afternoon appointment. That is only a 2 1/2 hour time difference. He went in to talk to the general practitioner, with this huge gauze thing on his hand, and the doctor took one look at it and "what are you doing here." He said he didn't know what they could do, have you had a tetanus shot. Well he hadn't so he went ahead and took a tetanus shot. He tried to get an appointment later on that day with same orthopedic surgeon, well he didn't have another opening until the next week.

Remember he works in a lumber mill, with belts and other equipment, they do get dirty. By next week when he went in to see the orthopedic surgeon, an infection had set in. So he went on a high powered antibiotic, knock em dead medication. He went through a 10 course of the medication, and they also arranged for surgery date at the end of the bout of antibiotics. He is now down in the surgery pre-room, never had gone under the knife before, knees were shaking, and the doctor opens it up and says, "is that pus, I see, yes, well we're not going to operate on this." So the doctor put him on another 7 day course of antibiotics. He came back 7 days later, now he is dealing with 3 weeks after the injury. The infection set in, it went deeper. Finally 3 weeks later, he is able go to work. So at the end of March, first of April, he finally gets in to have his finger operated on. At which time, they had to go in and re-break it because it had already started knitting. They re-broke it, pinned it, put it back together, and sent him home. The delay in surgery, along with the infection that set in, and not being able to take advantage of the strings pulled by his wife, cost him not to be able to go back to work, until the first part of August.

This happened the 1st part of March to the 1st part of August, which is five or six months that he was off and collecting Workers' Compensation.

So this was a pretty big expense for Worker's Compensation part and he understands they were trying to save money through the PPO.

This is much the same as a stone being cast into a pond where you have a ripple effect in Montana. One of the effects of being a Montanan is, it is not uncommon for us, or laborers at any rate to have to work at 2 or 3 different jobs. One of his other jobs is in the United States Army Reserve. In the Army Reserve one of the ways to become promoted, and moved up, is to go to leadership schools. The leadership school that he was scheduled to go to on the 18th of March 1997, required them to go through and pass a physical fitness test, which included doing push ups. They are not allowed to go to the Leadership Schools, if you can't pass the physical fitness test. He couldn't do push ups. For medical reasons, they wouldn't allow him to do push ups. So he had to forego that school. Now this was only a promotion from E6 to E7, but the monthly income and it is only about a \$15.00 difference every half day, so it is only about a \$60.00 a week difference.

He is getting very very close to retirement now in 1999. In December of 1999, he is eligible to retire. Unless things change, he is going to be retiring as an E6, the retirement difference, from now until the time he dies, between an E6, and an E7, is substantial during the course of any given month. Not only was he laid up at home, not able to make an income, falling further, and further behind on their mortgage payments, and monthly bills. You are still making as much as you can. He is not drawing as much from the military because he can't go to training, and he can't go to the leadership school. Further restrictions, he had to hire a kid to come in and mow the lawn. It wound up being a hell of an impact, solely because their company's interpretation of preferred provider organization was limited in scope. He endorses the amendment to prevent abuses of the act that have gone on.

Don Judge, Representing the Montana State AFL-CIO said they rise in support of **HB 430**. Some of them were here when a third provider, first choice of physician was first adopted into law. Everybody made it clear, and argued on the Floor of the House, and in the Senate, that if a worker was injured, the first choice of a treating physician is the employees'. It belongs to that injured worker. Well the quirk in the statute seems to say that it belongs to the worker unless they have been notified that they are to go to a third provider, or a managed care organization.

Now that was not the discussion, nor was it the intent of the legislation when it was passed. All this bill does is simply clarify, that when a worker is injured, they may end up going to an emergency room for the first initial treatment, with a broken leg or whatever it might be, or the injury that was just described by **Larry Keogh**. But the next choice of doctor is there's. You can go to your regular doctor for continued pain, or in his case to the physician that was going to do the surgery and get it all done. That is the way the law was written. That was the intent of the law. Unfortunately, there are some employers in the State, who are not following that intent. This legislation, simply clarifies that. He knows that **REP. SQUIRES** has amendments, so they don't need to call him up to the podium to ask him if they support the amendments, because they do. They think the amendments clarify the bill. It's a good bill. Its not going to cost anybody anything. It just gets back to doing what was intended.

Gene Fenderson, Representing Montana Highway Committee and group of Construction, which includes dams, refineries, highways, and causeways and such, said, their members work for many employers during the year. It is not unusual for their members to end up working for 15 - 20 different employers each year. Quite frankly it is really confusing out there in the field, who and where, and what coverage they have with that particular employer. Whether the superintendent of the job knows who the provider is. This bill is important to give them their freedom, and understanding that they can go to their own physician in their home town, if need be, when they are injured, or they are out on the road, they can go back home. He asks the Committee for their support of this bill.

Todd Thun, Representing the Montana Nurses' Association said, that he was surprised to learn that some companies are making employees go to preferred providers for an injury. He knows nurses at St. Patrick's Hospital when injured in the course of their duties aren't expected to go to a preferred provider following the injury. He urges their support of this bill.

Nancy Butler, Representing the State Fund said, the State Fund has always supported the right to choose the initial treating physician. They also support this legislation which clarifies that intent. They also have concerns about the amendment that is proposed by **REP. SQUIRES**.

Al Smith, Representing Montana Trial Lawyers said they stand in support of **HB 430**. It is not very often that these folks come to them, when they do have a problem with the medical benefits. They think it is a good clarification of the law. There

shouldn't be any objection to that and they have no problems with the amendments.

George Wood, Executive Secretary of the Montana Self-Insurers' Association, a group of Montana Employers, said they support this bill. The intent was clear, however, they have been informed by the people from Bonner, that there is a problem at that location. They think the prior interpretation is wrong and needs further clarification. They support strongly the amendments that **REP. SQUIRES** presented, so they support the bill and the amendments.

Opponents' Testimony: · None

SEN. BARTLETT asked, where are the amendments.

(The amendments were passed out)

Susan Fox, Legislative Researcher, told the Committee that she just processed the amendment.

REP. SQUIRES said, that when they presented **HB 430** over in the House, they wanted more clarification. There are no substantial changes in the original bill. The **State Fund** and **Mr. Wood** will agree that this is just basic language clarification. The amendment makes it simpler to read, and simpler to understand, as to what they are asking the insurance companies to do. There is no substantial changes, none of the above.

CHAIRMAN BISHOP asked, if the Committee members were comfortable with the amendment.

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. CAROLYN SQUIRES said, she would strongly encourage them to help her with this issue to put some teeth into the law, and to make sure that these folks and other workers out there, whether they be in an industrial plant, or in an office, or any other place, are well aware and informed of who they can choose when they are initially injured. Emergency room doctors don't count. The doctor that you initially see is the first one. You may go to your family physician and if the company and the preferred provider so choose, they can then request that you move into their PPO. But they get that one initial chance to pick your personal doctor, and then by notification, you will be moved into the PPO. Then you must go, or benefits don't continue. She

thinks that is only fair. This just clarifies, the method that the injured worker will be notified of that particular right that they have. They think this will help their folks, not only in the timber industry, but any other place that may have a preferred provider. She would encourage them to please pass her bill. **SEN. COCCHIARELLA** would be more than willing to carry this bill.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 25}

EXECUTIVE ACTION ON HB 266

Susan Fox, Legislative Researcher, explained that while the Committee was working on the second bill, she looked at the statutes regarding **HB 266**, and asked **Claudia Clifford** to review it quickly to make sure that it was covered. It does appear there is a problem, and they are not sure that the HMO's are covered. Is that something the Committee wants her to double check on, and work on. She didn't know if they checked on self-insured, but there is a problem with HMO's. Executive Action on **HB 266** was postponed until **Susan Fox** could clarify for the Committee.

EXECUTIVE ACTION ON HB 430

CHAIRMAN BISHOP asked if everyone understood the **Amendments**
#HB043001.asf. EXHIBIT(ph
s58a03)

Motion/Vote: **SEN. FRANKLIN** moved that **HB 430 BE AMENDED** -
#HB043001.asf. Motion carried unanimously -8-0.

Motion/Vote: **SEN. FRANKLIN** moved that **HB 430 BE CONCURRED IN AS**
AMENDED. Motion carried unanimously -8-0.

EXECUTIVE ACTION ON HB 399

Amendments to House Bill No. 430
3rd Reading Copy

Requested by Representative Carolyn Squires

For the Senate Public Health, Welfare and Safety Committee

Prepared by Susan Byorth Fox
March 15, 1999 (2:58PM)

1 Page 1, line 27.

Following: "(4)"

Strike: "A"

Insert: "After the date that a"

Following: "~~shall~~"Insert: "receives individual written notice of a referral to a
managed care organization, the worker"

2 Page 2, line 6.

Following: "CONSTITUTE"

Insert: "individual"

Following: "REGARDING"

Insert: "referral to a"

3 Page 2, line 7.

Strike: "REQUIREMENTS"

Insert: "organization"

Following: "DATE"Strike: "OF"

Insert: "that the"

4 Page 2, line 8.

Following: "INJURY"

Insert: "meets the provisions of subsection (3)"

5 Page 2, line 9.

Strike: "THIS SECTION"

Insert: "subsection (1)"

6 Page 2, line 10.

Following: line 9

Insert: "(6) Any postings or other information regarding
referral to a managed care organization on bulletin boards,
in personnel policies, in company manuals, or by other
general or broadcast means and any individual notice of

DATE 3-15-99

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: HB 266 and 430

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Joni Heydon	292-3680	Self	266	X	
Dean Heydon	292-3680	Self	266	X	
Eleanor Heydon	292-3680	Self	266	X	
Mary Munnif	449-4449	Self	266	X	
Jessie Miller	273-0028	WCIW L.U. 3038	430	X	
LARRY KEOGH	421-9734	WCIW L.U. 3038	430	X	
Bryan Erhart	251-5388	WCIW Local 3038	430	X	
Mike Spence	444-1286	DPHHS	266		
Claudia Clifford	444-4613	State Auditor's Office	266	✓	
Greg VanHorse	2-0230	State Farm Ins.	266		✓
Dale Jones	3-4000	MMA	266	✓	
TODD HUN	442-6710	MMA	266 430	✓	
Don Judge	442-1708	MT STATE AFL-CIO	48 430	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

ROLL CALL

SENATE COMMITTEE PUBLIC HEALTH,
WELFARE & SAFETY

DATE March 15, 1999

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BARTLETT	✓		
SENATOR BERRY	✓		
SENATOR BOHLINGER	✓		
SENATOR CHRISTIAENS	✓		
SENATOR DEPRATU	✓		
SENATOR ECK	✓		
SENATOR FRANKLIN	✓		
SENATOR GRIMES	✓		
SENATOR HARGROVE	✓		
SENATOR THOMAS, VC	✓		
SENATOR BISHOP, CHAIR	✓		

Attach to each day's minutes



SENATE STANDING COMMITTEE REPORT

March 16, 1999

Page 1 of 3

Mr. President:

We, your committee on **Public Health, Welfare and Safety** report that **House Bill 430** (third reading copy -- blue) be concurred in as amended.

Signed: _____

Al Bishop
Senator Al Bishop, Chair

To be carried by Senator Vicki Cocchiarella

And, that such amendments read:

1. Page 1, line 27.

Following: "(4)"

Strike: "A"

Insert: "After the date that a"

Following: "~~shall~~"

Insert: "receives individual written notice of a referral to a managed care organization, the worker"

2. Page 2, line 6.

Following: "CONSTITUTE"

Insert: "individual"

Following: "REGARDING"

Insert: "referral to a"

3. Page 2, line 7.

Strike: "REQUIREMENTS"

Insert: "organization"

Following: "DATE"

Strike: "OF"

Insert: "that the"

4. Page 2, line 8.

Following: "INJURY"

Committee Vote:

Yes 8, No 0.

591024SC.sjo

Sjo

Insert: "meets the provisions of subsection (3)"

5. Page 2, line 9.

Strike: "THIS SECTION"

Insert: "subsection (1)"

6. Page 2, line 10.

Following: line 9

Insert: "(6) Any postings or other information regarding referral to a managed care organization on bulletin boards, in personnel policies, in company manuals, or by other general or broadcast means and any individual notice of referral to a managed care organization, whether before or after the occurrence of an injury, must include in prominent type advice of the worker's right to choose the initial treating physician pursuant to subsection (1)."

7. Page 2, line 17.

Strike: "a"

Insert: "an individual"

8. Page 2, line 22.

Following: "constitute"

Insert: "individual"

Following: "regarding"

Insert: "referral to"

Strike: "provider"

Insert: "providers"

9. Page 2, line 23.

Strike: "requirements"

10. Page 2, line 25.

Following: "39-17-1101"

Insert: "(1)"

11. Page 2, line 26.

Following: line 25

Insert: "(3) Any postings or other information regarding referral to preferred providers on bulletin boards, in personnel policies, in company manuals, or by other general or broadcast means and any individual notice of referral to preferred providers, whether before or after the occurrence

1999 Montana Legislature

About Bill -- Links

HOUSE BILL NO. 430

INTRODUCED BY C. SQUIRES, V. COCCHIARELLA



AN ACT CLARIFYING THAT A WORKER MAY CHOOSE AN INITIAL TREATING PHYSICIAN EVEN IF A PREFERRED PROVIDER ORGANIZATION IS IN PLACE; PROVIDING FOR WRITTEN NOTICE TO THE INJURED WORKER AFTER THE DATE OF INJURY; AND AMENDING SECTIONS 39-71-1101 AND 39-71-1102, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-1101, MCA, is amended to read:

"39-71-1101. Choice of physician by worker -- change of physician -- receipt of care from managed care organization. (1) Subject to subsection (3), a worker may choose the initial treating physician within the state of Montana.

(2) Authorization by the insurer is required to change treating physicians. If authorization is not granted, the insurer shall direct the worker to a managed care organization, if any, or to a medical service provider who qualifies as a treating physician, who shall then serve as the worker's treating physician.

(3) A medical service provider who otherwise qualifies as a treating physician but who is not a member of a managed care organization may not provide treatment unless authorized by the insurer, if:

(a) the injury results in a total loss of wages for any duration;

(b) the injury will result in permanent impairment;

(c) the injury results in the need for a referral to another medical provider for specialized evaluation or treatment; or

(d) specialized diagnostic tests, including but not limited to magnetic resonance imaging, computerized axial tomography, or electromyography, are required.

(4) ~~After the date that a worker whose injury is subject to the provisions of subsection (3) shall receives individual written notice of a referral to a managed care organization, the worker must, unless otherwise authorized by the insurer, receive medical services from the managed care organization designated by the insurer, in accordance with 39-71-1104. The designated treating physician in the managed care organization then becomes the worker's treating physician. The insurer is not liable for medical services obtained otherwise, except that a worker may receive immediate emergency medical treatment for a compensable injury from a medical service provider who is not a member of a managed care organization.~~

(5) Posting of managed care requirements in the workplace on bulletin boards, in personnel policies, in company manuals, or by other general or broadcast means does not constitute individual written notice. To constitute individual written notice under this section, information regarding referral to a managed care organization must be provided to the worker in written form by mail or in person after the date that the injury meets the provisions of subsection (3). The notice must advise the worker of the worker's right to choose the initial treating physician under subsection (1).

(6) Any postings or other information regarding referral to a managed care organization on bulletin boards, in personnel policies, in company manuals, or by other general or broadcast means and any individual notice of referral to a managed care organization, whether before or after the occurrence of an injury, must include in prominent type advice of the worker's right to choose the initial treating physician pursuant to subsection (1)."

Section 2. Section 39-71-1102, MCA, is amended to read:

"39-71-1102. Preferred provider organizations -- establishment -- limitations. (1) In order to promote cost containment of medical care provided for in 39-71-704, development of preferred provider organizations by insurers is encouraged. Insurers may establish arrangements with suppliers of soft and durable medical goods and medical providers in addition to or in conjunction with managed care organizations. Workers' compensation insurers may contract with other entities to use the other entities' preferred provider organizations. After the date that a an injured worker is given an individual written notice by the insurer of a preferred provider, the insurer is not liable for charges from nonpreferred providers. This section does not prohibit the worker from choosing the initial treating physician under 39-71-1101(1).

(2) Posting of preferred provider requirements in the workplace on bulletin boards, in personnel policies, in company manuals, or by other general or broadcast means does not constitute individual written notice. To constitute individual written notice under this section, information regarding referral to preferred providers must be provided to the worker in written form by mail or in person after the date of injury. The notice must advise the worker of the worker's right to choose the initial treating physician under 39-71-1101(1).

(3) Any postings or other information regarding referral to preferred providers on bulletin boards, in personnel policies, in company manuals, or by other general or broadcast means and any individual notice of referral to preferred providers, whether before or after the occurrence of an injury, must include in prominent type advice of the worker's right to choose the initial treating physician pursuant to subsection 39-71-1101(1)."

- END -

Latest Version of HB 430 (*HB0430.ENR*)

Processed for the Web on April 14, 1999 (1:34PM)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.
See the status of the bill for the bill's primary sponsor.

Status of this Bill | 1999 Session | Leg. Branch Home
This bill in WP 5.1 | All versions of all bills in WP 5.1

Prepared by Montana Legislative Services
(406)444-3064